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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,482	03/21/2007	Stefan Hofmair	001800-68	3588
78198 7590 02/17/2011 Studebaker & Brackett PC One Fountain Square 11911 Freedom Drive, Suite 750 Reston, VA 20190				
EXAMINER CHOL PETER Y				
ART UNIT		PAPER NUMBER		
1786				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

info@sbpatentlaw.com

Office Action Summary

Application No.

10/581,482

Applicant(s)

HOFMAIR ET AL.

Examiner

PETER Y. CHOI

Art Unit

1786

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-7 and 10-24 is/are pending in the application.
- 4a) Of the above claim(s) 17-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-7 and 10-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-5, 7, 10, 15, and 16 are rejected under 35 U.S.C. 103(a) as obvious over USPN 5,982,284 to Baldwin in view of USPN 4,626,311 to Taylor.

Regarding claims 1 and 4, Baldwin teaches a textile label featuring a base layer, a transponder arrangement including a chip and an antenna (Baldwin, Abstract, column 3 lines 6-51), the transponder arrangement being bonded to the base layer by a first adhesive layer, a second adhesive layer, and an additional layer including an upper label bonded to the remainder of the label by the second adhesive layer (Id., Figures 1, 3 and 4), wherein the chip is covered by the second adhesive layer and is sealed by the second adhesive layer (Id., Figures 1, 3 and 4; see additionally column 1 line 14 to column 2 line 59, column 3 line 52 to column 5 line 48). Baldwin teaches that the base layer is a textile base layer and the additional layer is a textile layer, as paper appears to be within the scope of a textile base layer, and as it is a non-woven structure made of fibers.

Regarding claims 1 and 4, Baldwin does not appear to specifically teach that the chip and antenna are sealed against environmental influences by the second adhesive layer and the first and second adhesive layers, wherein the first adhesive layer consists of a polyester adhesive. However, Taylor teaches a substantially similar anti-theft label which is attached to a garment,

the security label comprising a security device between first and second fabric layers, wherein the security device is encapsulated by thermoplastic material (Taylor, column 1 lines 7-11, column 1 line 65 to column 2 line 30, column 3 lines 15-68, column 4 lines 50-61, column 5 line 57 to column 6 line 12, column 6 lines 47-52). Taylor teaches that the thermoplastic material is preferably a thermoplastic polyester, which provides a fluid-tight seal, which isolates the security device from water and chemicals (Id., column 5 lines 57-68, column 6 lines 1-12, column 6 lines 47-52). Taylor teaches that the thermoplastic material additionally serves to attach the security device to a particular part of a cloth product (Id., column 3 lines 15-32). It would have been obvious to one of ordinary skill in the security label art at the time the invention was made to form the security label of Baldwin, wherein the adhesive layers comprise polyester adhesive layers which encapsulate and provide a fluid-tight seal around the transponder arrangement, as taught by Taylor, motivated by the desire of forming a conventional security label with materials known in the art as being predictably suitable for forming security labels which can be attached to garments, and which provide a fluid-tight seal to protect the security device from water and chemicals, and damage or rust.

Regarding claim 3, Baldwin teaches that the second adhesive layer extends over the entire transponder arrangement in a plane fashion (Baldwin, Figures 1-4).

Regarding claim 5, Baldwin teaches that the second adhesive layer consists of a hot-melt adhesive (Baldwin, column 3 line 58 to column 4 line 5).

Regarding claim 7, Baldwin teaches that the base layer features at least one of the group including graphic and alphanumeric symbols (Baldwin, column 1 lines 14-55).

Regarding claim 10, Baldwin teaches that the upper label features at least one of the group including graphic and alphanumeric symbols (Baldwin, column 1 lines 14-55).

Regarding claim 15, Baldwin teaches that the additional textile layer includes part of a garment (Baldwin, column 6 lines 11-19). Since the label is attached to a garment, the label including the additional textile layer appears to be within the scope of the claimed limitation as being part of a garment. Additionally, it would have been obvious to one of ordinary skill in the security label art at the time the invention was made to form the security label of the prior art combination, wherein the additional layer includes part of a garment, motivated by the desire of forming a conventional security label which is securely attached to a garment, such that the security label is integrally formed as part of a garment to ease in manufacturing, and such that the security label is difficult to remove.

Regarding claim 16, Baldwin teaches a garment featuring a label according to claim 1 (Baldwin, column 6 lines 11-15, claims 18-32).

3. Claims 6 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baldwin in view of Taylor, as applied to claims 1, 3-5, 7, 10, 15, and 16 above, and further in view of WO 01/75843 to Tirkkonen.

Regarding claim 6, Baldwin teaches a radio frequency identification device including a foil antenna coil and an integrated circuit. However, Baldwin does not appear to teach that the antenna consists at least predominantly of copper. Since Baldwin is silent as to the composition of the radio frequency identification device, it would have been necessary and therefore obvious to look to the prior art for conventional compositions of radio frequency identification devices.

Tirkkonen provides this conventional teaching, showing that it is known in the identification label art to form a substantially similar identification label for use on garments, the label comprising a transponder and multiple layers of adhesive, wherein the transponder comprises a radio frequency identification device formed from copper wire (Tirkkonen, page 1 line 1 to page 4 line 20, page 4 line 36 to page 8 line 13, Figures 1-8).

It would have been obvious to one of ordinary skill in the identification label art at the time the invention was made to form the identification label of the prior art, such that the foil antenna coil of the radio frequency identification device comprises copper, as taught by Tirkkonen, motivated by the desire of forming a conventional identification label formed from metals known in the art to be predictably suitable for radio frequency identification devices.

Regarding claims 11-14, the prior art combination teaches that the label may be applied to a product by conventional methods. However, the prior art combination does not appear to teach that the upper layer protrudes over the base layer on at least one side, that at least a portion of the region of the upper label that protrudes over the base layer can be separated from the remainder of the label, and that the region of the upper label that protrudes over the base layer is sewn and/or bonded to a garment. Since the prior art combination is silent as to the method of attaching the label to a garment, it would have been necessary and therefore obvious to look to the prior art for conventional methods of attaching labels to garments.

Tirkkonen provides this conventional teaching, showing that it is known in the identification label art to form a substantially similar identification label for use on garments, the label comprising a transponder and multiple layers of adhesive, wherein at least a portion of a textile layer protrudes over the remaining portion of the layer (as shown in Figures 5-7 of

Tirkonnen), such that the label is attached at its edges by sewing gluing to a product (Tirkonnen, page 1 line 1 to page 4 line 20, page 4 line 36 to page 8 line 13, Figures 1-8).

It would have been obvious to one of ordinary skill in the identification label art at the time the invention was made to form the identification label of the prior art combination, such that a portion of a textile layer protrudes over the base layer to be sewn or glued to a garment, as taught by Tirkonnen, motivated by the desire of forming a conventional identification label with conventional attaching methods known in the art to be predictably suitable for attaching identification labels to products such as garments.

Response to Arguments

4. Applicants' arguments with respect to claims 1, 3-7 and 10-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER Y. CHOI whose telephone number is (571)272-6730. The examiner can normally be reached on Monday - Friday, 08:00 - 15:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Peter Y Choi /PYC/
Examiner, Art Unit 1786

/Andrew T Piziali/
Primary Examiner, Art Unit 1798